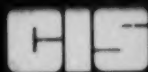


# NOTE

This Microfiche meets the quality requirements of the American National Standard for Microfiche of Documents (ANSI PH5.9-1975). However, because of imperfections in the document from which it was made, it contains images that are illegible or difficult to read. The source document for this microfiche is the best copy that could be obtained prior to filming.



Congressional Information Service, Inc.  
Washington, D.C.

## MARY McLEOD BETHUNE COUNCIL HOUSE

NOVEMBER 18, 1985.—Ordered to be printed

Mr. McClure, from the Committee on Energy and Natural Resources, submitted the following

## REPORT

[To accompany S. 1116]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 1116) to amend the Act of October 15, 1982, entitled "An Act to designate the Mary McLeod Bethune Council House in Washington, District of Columbia, as a national historic site, and for other purposes", having considered the same, report favorably thereon with an amendment to the text and recommend that the bill (as amended) do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

## SECTION 1. BETHUNE MUSEUM AND ARCHIVES.

(a) COOPERATIVE AGREEMENT.—Section 3 of the Act of October 15, 1982, entitled "An Act to designate the Mary McLeod Bethune Council House in Washington, District of Columbia, as a national historic site, and for other purposes" (96 Stat. 1615; 16 U.S.C. 461 note), is amended to read as follows:

"SEC. 3. In furtherance of the purposes of this Act and the Act of August 21, 1935 (16 U.S.C. 461-7), the Secretary of the Interior is authorized and directed to enter into cooperative agreements with the Bethune Museum and Archives. Such agreements may include provisions by which the Secretary will provide technical assistance to mark, restore, interpret, operate, and maintain the historic site and may also include provisions by which the Secretary will provide financial assistance to mark, interpret, and restore the historic site. Such agreement may also contain provisions that—

"(1) the Secretary of the Interior, acting through the National Park Service, shall have right of access at all reasonable times to all public portions of the property covered by such agreement for the purpose of conducting visitors through such properties and interpreting them to the public; and

"(2) no changes or alterations shall be made in such properties except by mutual agreement between the Secretary and the other parties to such agreements.

"No limitation or control of any kind over the use of such properties customarily used for the purposes of the Bethune Museum and Archives shall be imposed by any such agreement."

S313-13

(b) ANNUAL REPORT.—Section 4 of such Act is amended by striking out "National Council of Negro Women" and inserting in lieu thereof "Bethune Museum and Archives".

#### SEC. 2. AUTHORIZATION.

Section 5 of the Act of October 15, 1982, entitled "An Act to designate the Mary McLeod Bethune Council House in Washington, District of Columbia, as a national historic site, and for other purposes" (96 Stat. 1615; 16 U.S.C. 461 note) is amended to read as follows:

#### "ASSISTANCE

"SEC. 5. (a) OPERATION AND MAINTENANCE.—For purposes of carrying out the cooperative agreement under section 3, there is authorized to be appropriated for operation and maintenance of the historic site, not more than \$100,000 for the fiscal year 1987, \$110,000 for the fiscal year 1988, and \$120,000 for the fiscal year 1989.

"(b) MATCHING GRANTS.—In addition to sums authorized to be appropriated under subsection (a), there is authorized to be appropriated for purposes of making grants to the Bethune Museum and Archives for purposes of building repair and improvement and for protection of the archives not more than \$300,000. Grants to the Bethune Museum and Archives under this subsection shall cover not more than 50 percent of the costs of such building repair and improvement and archive protection. The remaining share shall be borne by the Bethune Museum and Archives with such non-Federal funds and documented services as are satisfactory to the Secretary. Sums authorized to be appropriated under this subsection shall remain available until expended."

#### SEC. 3. DEFINITION.

Such Act is further amended by adding the following new section at the end thereof:

#### "REFERENCE TO BETHUNE MUSEUM AND ARCHIVES

"SEC. 6. Any reference in this Act to the 'Bethune Museum and Archives' shall be treated as a reference to the Mary McLeod Bethune Museum of the National Council of Negro Women, Inc."

#### SEC. 4. COMPLIANCE WITH BUDGET ACT.

Any provision of this Act (or any amendment made by this Act) which directly or indirectly authorizes the enactment of new budget authority described in section 402(a) of the Congressional Budget Act of 1974 shall be effective only after September 30, 1986.

### PURPOSE OF THE MEASURE

The purpose of S. 1116 is to amend the Act of October 15, 1982, entitled "An Act to designate the Mary McLeod Bethune Council House in Washington, District of Columbia, as a national historic site, and for other purposes" (Public Law 97-329), to make clarifying amendments and to provide for a continuing authorization for appropriations.

### BACKGROUND AND NEED

The last official residence of Mary McLeod Bethune, the renowned educator and national political leader, was the "Council House" located at 1318 Vermont Avenue, N.W., Washington, DC. Bethune was the founder and president of Bethune-Cookman College, Florida and the National Council of Negro Women, and was appointed by President Franklin Delano Roosevelt as Director of the Division of Negro Affairs of the National Youth Administration in Washington, DC.

From 1943 to 1949, Mrs. Bethune was in residence at the Council House. Her home was where she directed activities that brought her national and international recognition. The Council House

served as the first national headquarters of the National Council of Negro Women. Some of the most prominent national and international figures of the 1940's and 1950's, including Charles Drew, Madame Pandit of India, President Tubman of Liberia, Ralph Bunche, and Eleanor Roosevelt were received and entertained at her home.

Today, Council House remains in the ownership of the National Council of Negro Women. Within the house is the Mary McLeod Bethune Memorial Museum and the National Archives for Black Women's History. The archives houses the largest extant manuscript collection of materials pertaining to black women and their organizations, and contains extensive correspondence, photographs and memorabilia relating to Mrs. Bethune. Materials, artifacts, clothing, etc., which document the history of the black community and black women are actively collected by the museum and archives.

The National Council of Negro Women has accomplished extensive restoration and interpretation of the site, including the museum and archives. Public Law 97-329 was enacted into law on October 15, 1982, establishing the Mary McLeod Bethune Council House National Historic Site. The Secretary has entered into a cooperative agreement with the National Council of Negro Women to provide for technical and financial assistance to mark, interpret and restore the historic site. Routine operations are to be provided by the Council.

S. 1116 as introduced would amend Public Law 97-329 to have the Bethune Museum and Archives replace the National Council of Negro Women as the group of record for purposes of entering into a cooperative agreement to receive technical and financial assistance from the Department of the Interior for use by the Mary McLeod Bethune Council House National Historic Site. S. 1116 as introduced would also raise the appropriation ceiling for technical assistance from a maximum of \$100,000 to \$200,000 annually until fiscal year 1991 and an increase from \$100,000 to \$500,000 in the authorization of appropriations to be used as a 50/50 matching grant. A total of \$298,000 has been appropriated to date.

#### LEGISLATIVE HISTORY

S. 1116 was introduced on May 9, 1985. The Subcommittee on Public Lands, Reserved Water and Resource Conservation held a hearing on S. 1116 on October 10, 1985. The Administration, in testimony, recommends against the enactment of S. 1116.

At a business meeting on November 6, 1985, the Senate Committee on Energy and Natural Resources ordered S. 1116, as amended, favorably reported.

#### COMMITTEE RECOMMENDATIONS AND TABULATION OF VOTES

The Senate Committee on Energy and Natural Resources, in open business session on November 6, 1985, by a unanimous vote of a quorum present recommends that the Senate pass S. 1116, if amended, as described herein.

The rollcall vote on reporting the measure was 17 yeas, 0 nays as follows:

## YEAS

Mr. McClure  
 Mr. Hatfield \*  
 Mr. Weicker \*  
 Mr. Domenici \*  
 Mr. Wallop  
 Mr. Warner  
 Mr. Murkowski \*  
 Mr. Nickles  
 Mr. Hecht  
 Mr. Evans  
 Mr. Johnston  
 Mr. Bumpers \*  
 Mr. Ford  
 Mr. Metzenbaum  
 Mr. Bradley  
 Mr. Bingaman \*  
 Mr. Rockefeller \*

## NAYS

## COMMITTEE AMENDMENT

The Committee amendment is in the nature of a substitute to S. 1116 which amends the Act of October 15, 1982, which established the Mary McLeod Bethune Council House as a national historic site.

Section 1 would amend the Act by striking out "National Council of Negro Women" each place it appears and inserting in lieu thereof "Bethune Museum and Archives", and by making that term a reference for the Mary McLeod Bethune Museum of the National Council of Negro Women, Inc. Section 1 also amends section 3 of the Act of October 15, 1982 to clarify the Secretary's authority to provide technical and financial assistance to mark, interpret and restore the historic site, including the use of funds to pay salaries of employees directly engaged in those activities.

Section 2 would amend the Act of October 15, 1982, by authorizing an annual appropriation of \$100,000 for fiscal year 1987, \$110,000 for fiscal year 1988, and \$120,000 for fiscal year 1989. In addition, a one-time grant of up to \$300,000 is authorized for the purpose of building repair and improvement and archive protection, providing non-Federal funds or services are provided equal to at least 50 percent of the Federal funds provided. S. 1116, as introduced, would have raised the authorization for appropriations for technical assistance from a maximum of \$100,000 to \$200,000 annually until fiscal year 1991, and an increase from \$100,000 to \$500,000 in the authorization to be used as a 50/50 matching grant. A total of \$298,000 has been appropriated as of this date.

Section 3 clarifies the reference to the Bethune Museum and Archives.

Section 4 changes the effective date of budget authority to comply with the Congressional Budget Act of 1974.

---

\* Indicates voted by proxy.

# COST AND BUDGETARY CONSIDERATIONS

The following estimate of the cost of this measure has been provided by the Congressional Budget Office:

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
Washington, DC, November 7, 1985.

Hon. JAMES A. McCLURE,  
Chairman, Committee on Energy and Natural Resources, U.S.  
Senate, Dirksen Senate Office Building, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the attached cost estimate for S. 1116, a bill to amend the Act of October 15, 1982, entitled "An Act to designate the Mary McLeod Bethune Council House in Washington, District of Columbia, as a national historic site, and for other purposes."

If you wish further details on this estimate, we will be pleased to provide them.

With best wishes,  
Sincerely,

RUDOLPH G. PENNER.

## CONGRESSIONAL BUDGET OFFICE—COST ESTIMATE

1. Bill number: S. 1116.
2. Bill title: A bill to amend the Act of October 15, 1982, entitled "An Act to designate the Mary McLeod Bethune Council House in Washington, District of Columbia, as a national historic site, and for other purposes."
3. Bill status: As ordered reported by the Senate Committee on Energy and Natural Resources, November 6, 1985.
4. Bill purpose: S. 1116 would authorize appropriations totaling \$630,000 for the purpose of making grants to the Bethune Museum and Archives. Of this amount, \$300,000 would be earmarked for building repair and improvement and protection of the archives; the remainder would be for operation and maintenance of the museum during fiscal years 1987-1989.
5. Estimated cost to the Federal Government:

(By fiscal years, in millions of dollars)

|                          | 1986 | 1987 | 1988 | 1989 | 1990  |
|--------------------------|------|------|------|------|-------|
| Authorization level..... |      | 0.4  | 0.1  | 0.1  | ..... |
| Estimated outlays.....   |      | .4   | .1   | .1   | ..... |

The costs of this bill fall within budget function 300.

Basis of estimate: For the purposes of this estimate, it is assumed that all funds authorized will be appropriated for each fiscal year. Consistent with Section 4 of the bill, the \$300,000 authorized without fiscal-year specification is assumed to be appropriated for 1987. Authorization levels are those stated in the bill. Outlays have been estimated on the basis of information obtained from the Department of the Interior.

6. Estimated cost to State and local governments: None.

7. Estimate comparison: None.

8. Previous CBO estimate: On October 11, 1985, CBO prepared a cost estimate for H.R. 1391, a similar bill ordered reported by the House Committee on Interior and Insular Affairs. This estimate is identical to the previous one.

9. Estimate prepared by: Deb Reis.

10. Estimate approved by: C.G. Nuckols for James L. Blum, Assistant Director for Budget Analysis.

#### REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of Rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying out S. 1116. The bill is not a regulatory measure in the sense of imposing Government-established standards or significant economic responsibilities on private individuals and businesses.

No personal information would be collected in administering the program. Therefore, there would be no impact on personal privacy.

Little, if any, additional paperwork would result from the enactment of S. 1116 as reported.

#### EXECUTIVE COMMUNICATIONS

The pertinent legislative reports received by the Committee from the Department of the Interior setting forth executive agency recommendations relating to S. 1116 are set forth below:

U.S. DEPARTMENT OF THE INTERIOR,  
OFFICE OF THE SECRETARY,  
Washington, DC, November 7, 1985.

Hon. JAMES A. MCCLURE,  
*Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.*

DEAR MR. CHAIRMAN: This responds to your request for our views on S. 1116, a bill "To amend the Act of October 15, 1982, entitled 'An Act to designate the Mary McLeod Bethune Council House in Washington, District of Columbia, as a national historic site, and for other purposes'."

We recommend against the enactment of S. 1116.

The Mary McLeod Bethune Council House, located at 1318 Vermont Avenue, Northwest, was the residence of the renowned educator Mary McLeod Bethune from 1943 until her death in 1955. The property is owned and operated by the National Council of Negro Women.

The Act of October 15, 1982, designated this residence as a national historic site. Section 3 of the Act authorized and directed the Secretary of the Interior to enter into agreements with the National Council of Negro Women. Under such agreements, the Secretary may provide technical assistance to mark, restore interpret, operate, and maintain the historic site, and financial assistance to mark, interpret, and restore the historic site (including preservation-related capital improvements and repairs, but not including other routine operations). The 1982 Act authorized the appropriation of \$100,000 for financial assistance under Section 3. It also au-

thorized the appropriation of an additional \$100,000 for grants "for the purposes of this Act" to be matched by an equal amount of funds or services.

In fiscal year 1984, the entire \$200,000 authorized was appropriated and granted to the National Council of Negro Women. These funds were made available under a grant agreement which we negotiated with the Council, dated November 17, 1982. Of the \$200,000 granted to the Council, \$100,000 was matched in cash by the Council.

In fiscal year 1985, Congress appropriated an additional \$98,000, which has been granted to the Council. The National Park Service did not request any funds in its budget for this purpose in fiscal 1985, and no funds are requested in fiscal year 1986.

S. 1116 would amend the 1982 legislation in two respects. First, it would change references to the National Council of Negro Women in the Act to refer, instead, to the Bethune Museum and Archives. This merely reflects action which has been taken by the Council to designate its subsidiary, the Bethune Museum and Archives, as the entity that operates the national historic site.

Second, S. 1116 would authorize appropriations of \$200,000 per year beginning in fiscal year 1986 until fiscal year 1991 "to assist in carrying out the purposes of this Act." In addition, the bill would authorize grants totalling \$500,000 to be matched by an equal amount of funds or services contributed by the museum.

As we understand the language of the 1982 Act, the funds authorized were to be used to assist in marking, interpreting, and restoring the site. Section 3 of the Act clearly authorizes two kinds of assistance: technical assistance, which may include non-financial assistance for operation and maintenance; and financial assistance, which is only for marking, interpreting, and restoration of the site. No funds were authorized for grants to the Council for operation and maintenance. Section 3 is specific in its prohibition in this regard. It states that financial assistance does not include "other routine operations".

We must note that most of the \$298,000 previously granted to the Council was spent for staff salaries. The Council has indicated that most of any future grants would also be spent on salaries. We believe grants for salaries are inconsistent with the 1982 Act and the intent of Congress in designating this property as a national historic site. For this reason, we must recommend against enactment of S. 1116.

The Office of Management and Budget has advised that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

P. DANIEL SMITH,  
*Deputy Assistant Secretary.*

#### CHANGES IN EXISTING LAW

In compliance with paragraph 12 of Rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill as ordered reported are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in

italic, existing law in which no change is proposed is shown in roman):

AN ACT To designate the Mary McLeod Bethune Council House in Washington, District of Columbia, as a national historic site, and for other purposes

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### COOPERATIVE AGREEMENT

**[SEC. 3.** In furtherance of the purposes of this Act and the Act of August 21, 1935 (16 U.S.C. 461-7), the Secretary of the Interior is authorized and directed to enter into cooperative agreements with the National Council of Negro Women. Such agreements may include provisions by which the Secretary will provide technical assistance to mark, restore, interpret, operate, and maintain the historic site and may also include provisions by which the Secretary will provide financial assistance to mark, interpret, and restore the historic site (including the making of preservation-related capital improvements and repairs but not including other routine operations). Such agreement may also contain provisions that—

**[(1)** the Secretary of the Interior, acting through the National Park Service, shall have right of access at all reasonable times to all public portions of the property covered by such agreement for the purpose of conducting visitors through such properties and interpreting them to the public; and

**[(2)** no changes or alterations shall be made in such properties except by mutual agreement between the Secretary and the other parties to such agreements.

**[No limitation or control of any kind over the use of such properties customarily used for the purposes of the National Council of Negro Women shall be imposed by any such agreement.]**

*SEC. 3. In furtherance of the purposes of this Act and the Act of August 21, 1935 (16 U.S.C. 461-7), the Secretary of the Interior is authorized and directed to enter into cooperative agreements with the Bethune Museum and Archives. Such agreements may include provisions by which the Secretary will provide technical assistance to mark, restore, interpret, operate, and maintain the historic site and may also include provisions by which the Secretary will provide financial assistance to mark, interpret, and restore the historic site. Such agreement may also contain provisions that—*

*(1) the Secretary of the Interior, acting through the National Park Service, shall have right of access at all reasonable times to all public portions of the property covered by such agreement for the purpose of conducting visitors through such properties and interpreting them to the public; and*

*(2) no changes or alterations shall be made in such properties except by mutual agreement between the Secretary and the other parties to such agreements.*

*No limitation or control of any kind over the use of such properties customarily used for the purposes of the Bethune Museum and Archives shall be imposed by any such agreement.*

## ANNUAL REPORT

SEC. 4. The [National Council of Negro Women] *Bethune Museum and Archives* shall, as a condition of the receipt of any assistance under this Act, provide to the Secretary of the Interior and to the Congress of the United States an annual report documenting the activities and expenditures for which any such assistance was used during the preceding fiscal year.

[SEC. 5. Beginning after September 30, 1983, there is authorized to be appropriated \$100,000 to provide financial assistance under section 3 of this Act. There is also authorized to be appropriated for purposes of making grants to the National Council of Negro Women for purposes of this Act an additional \$100,000 to be provided, as may be agreed to by the Secretary of the Interior and the National Council, on a fifty-fifty matching basis to the extent that funds or services are contributed by the National Council for such purposes. Sums authorized to be appropriated under this section shall remain available until expended.]

## ASSISTANCE

SEC. 5. (a) OPERATION AND MAINTENANCE.—For purposes of carrying out the cooperative agreements under section 3, there is authorized to be appropriated for operation and maintenance of the *Bethune Museum and Archives*, not more than \$100,000 for the fiscal year 1987, \$110,000 for the fiscal year 1988, and \$120,000 for the fiscal year 1989.

(b) MATCHING GRANTS.—In addition to sums authorized to be appropriated under subsection (a), there is authorized to be appropriated for purposes of making grants to the *Bethune Museum and Archives* for purposes of building repair and improvement and for protection of the archives not more than \$300,000. Grants to the *Bethune Museum and Archives* under this subsection shall cover not more than 50 percent of the costs of such building repair and improvement and archive protection. The remaining share shall be borne by the *Bethune Museum and Archives* with such non-Federal funds and documented services as are satisfactory to the Secretary. Sums authorized to be appropriated under this subsection shall remain available until expended.

## REFERENCE TO BETHUNE MUSEUM AND ARCHIVES

SEC. 6. Any reference in this Act to the "*Bethune Museum and Archives*" shall be treated as a reference to the *Mary McLeod Bethune Museum of the National Council of Negro Women, Inc.*

CLEARING TITLE TO CERTAIN LANDS ALONG THE  
CALIFORNIA-NEVADA BOUNDARY

---

NOVEMBER 18, 1985.—Ordered to be printed

---

Mr. McCLURE, from the Committee on Energy and Natural Resources, submitted the following

## REPORT

[To accompany S. 1503]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 1503) to clear title to certain lands along the California-Nevada boundary, having considered the same, reports favorably thereon with an amendment to the text and recommends that the bill, as amended, do pass.

The amendment is as follows:

On page 4, strike lines 2 through 9 and insert in lieu thereof the following:

As soon as practicable after the date of enactment of this Act, the Secretary of the Interior shall request that the States of California and Nevada submit maps, a list of patents or other conveyances for tracts of land the two States agree are affected by sections 2 and 3 of this Act. Upon concurring that the patents or other conveyances so listed are those intended to be covered by this Act, the Secretary of the Interior shall publish the list of patents or other conveyances in the Federal Register. The Secretary is authorized to make clerical and typographical corrections of errors in the list of patents or other conveyances and maps. Such maps, using the United States Department of the Interior Bureau of Land Management Master Title Plats showing the affected lands shall be on file for illustrative purposes and along with the list of patents or other conveyances shall be available for public inspection with the State Directors of the Bureau of Land Management, Department of the Interior in California and Nevada, and with the State Lands Administrator of Nevada and State Lands Commissioner of California.

**SEC. 6. STATE RIGHTS.**

Nothing in this Act shall be construed as conferring on either the State of California or the State of Nevada any rights with regard to entitlements to Federal lands, or as enlarging, diminishing, or otherwise affecting any such rights which may exist under other provisions of law.

## PURPOSE OF THE MEASURE

S. 1503 would remove a cloud on title to various parcels of land which were conveyed by the United States to California and Nevada and then into private ownership. Because the boundary between California and Nevada was determined in 1980 by the U.S. Supreme Court, in *California v. Nevada* (447 U.S. 125 (1980)), it is now recognized that Nevada and California each conveyed land actually located in the other State. S. 1503 confirms current ownership in third parties. The bill does not apply to lands still retained by the States.

## BACKGROUND AND NEED

The common boundary of California and Nevada is defined primarily by reference to lines of latitude and longitude. However, its exact location on the ground has been uncertain from the time those States were admitted to the Union because of inaccessibility of the land, and conflicting surveys. During the last half of the 19th century a great deal of real property located within a few miles of the boundary was transferred by the United States to each of the States. According to the boundary line established in 1980 by the United States Supreme Court, approximately 11,000 acres of that real property are, in fact, located within the boundaries of the other State. Language in some of the Federal statutes authorizing such transfers to a State limit the transfers to land located within the State. As a result, the effectiveness of various transfers may be questioned. However, only a few questions have been raised, and most of this real property has been transferred into private ownership by the State which was named as transferee. Subsequent deeds and other instruments affecting it have been relied on as valid by Federal, State and local governments, and by the public. Much of the property is highly developed and very valuable.

S. 1503 would confirm the validity of the original transfers from the United States and thereby remove any question concerning the legal sufficiency of titles to and other interests in that land. Most of these titles and interests can be traced back for over a hundred years.

## LEGISLATIVE HISTORY

S. 1503 was introduced on July 25, 1985. The Subcommittee on Public Lands, Reserved Water and Resource Conservation held a hearing on S. 1503 on October 4, 1985. The Administration, in testimony, does not object to enactment of S. 1503 if amended.

At a business meeting on November 6, 1985, the Senate Committee, on Energy and Natural Resources ordered S. 1503, as amended, favorably reported.

## COMMITTEE RECOMMENDATIONS AND TABULATION OF VOTES

The Senate Committee on Energy and Natural Resources, in open business session on November 6, 1985, by a unanimous vote of a quorum present recommends that the Senate pass S. 1503, if amended, as described herein.

The rollcall vote on reporting the measure was 17 yeas, 0 nays as follows:

YEAS  
 Mr. McClure  
 Mr. Hatfield <sup>1</sup>  
 Mr. Weicker <sup>1</sup>  
 Mr. Domenici <sup>1</sup>  
 Mr. Wallop  
 Mr. Warner  
 Mr. Murkowski <sup>1</sup>  
 Mr. Nickles  
 Mr. Hecht  
 Mr. Evans  
 Mr. Johnston  
 Mr. Bumpers <sup>1</sup>  
 Mr. Ford  
 Mr. Metzenbaum  
 Mr. Bradley  
 Mr. Bingaman <sup>1</sup>

NAYS

<sup>1</sup> Indicates voted by proxy.

#### COMMITTEE AMENDMENT

S. 1503, as reported, provides for a simple and immediately effective declaration removing a serious cloud on the title to land that was formerly Federal public lands separately granted to each of the two States, and later sold by them to third parties. The need for legislation arises because of errors in the historical surveys establishing the boundaries of the two States were corrected in 1980 by the United States Supreme Court (447 U.S. 125 (1980)).

However, over the century of uncertainty, some land routinely granted by the United States to the State in which it was apparently located, to finance public schools, internal improvements, or for other federally supported purposes, was routinely sold by the States to private parties. When the shifts of boundary resulted in transfer of the location of lands to California and vice versa, a question was raised whether the titles derived from the "wrong" State were now valid.

The two States seek to have the third parties involved recognized as holding valid title notwithstanding this question. S. 1503, after reviewing the background in section 1, effectively does this immediately by sections 2 and 3. The remaining sections provide the necessary mechanics for identification of the lands which are immediately subject to this bill.

Section 4 states that the bill does not apply to any Federal grant lands which are still retained by either of the States, and not conveyed to third parties. Section 5 specifies that the private lands involved will be identified by the use of the Interior Department Title Plats mapping the area and the listing of the original patents granting the lands to private parties. The base maps in question are, as noted in the appendix, those prepared by the Department of the Interior, and have been certified as correct from State records by the California State Lands Commission and the Nevada Division

of State Lands, and as correct from Federal records by the State Directors of the Bureau of Land Management for the State.

Section 6 has been added by the Committee to make it clear that this bill, if enacted, would not confer on either State any rights with regard to entitlement to Federal lands nor would the legislation enlarge, diminish or otherwise affect any such rights which may exist under other provisions of law. The sole purpose and effect of this legislation will be to eliminate a serious cloud on the title of lands held by private citizens, which occurred without fault on their part, without in any way affecting any State's claims as against the United States.

#### COST AND BUDGETARY CONSIDERATIONS

The following estimate of the cost of this measure has been provided by the Congressional Budget Office:

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
Washington, DC, November 8, 1985.

HON. JAMES A. MCCLURE,  
*Chairman, Committee on Energy and Natural Resources,*  
*U.S. Senate, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed S. 1503, a bill to clear title to certain lands along the California-Nevada boundary, as ordered reported by the Senate Committee on Energy and Natural Resources, November 6, 1985.

S. 1503 would reaffirm the validity of the conveyances of certain lands transferred to the states of Nevada and California which, as a result of a 1980 Supreme Court decision redefining the California-Nevada boundary, are now located within the borders of the other state. Based on information from the Department of the Interior, we estimate that enactment of this bill would result in no significant cost to the federal government or to state or local governments.

If you wish further details on this estimate, we will be pleased to provide them.

With best wishes,  
Sincerely,

RUDOLPH G. PENNER, *Director.*

#### REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of Rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying out S. 1503. The bill is not a regulatory measure in the sense of imposing Government-established standards or significant economic responsibilities on private individuals and businesses.

No personal information would be collected in administering the program. Therefore, there would be no impact on personal privacy.

Little, if any, additional paperwork would result from the enactment of S. 1503 as reported.

## EXECUTIVE COMMUNICATIONS

The pertinent legislative reports received by the Committee from the Department of the Interior setting forth executive agency recommendations relating to S. 1503 are set forth below:

U.S. DEPARTMENT OF THE INTERIOR,  
OFFICE OF THE SECRETARY,  
*Washington, DC, November 14, 1985.*

Hon. JAMES A. McCLURE,  
*Chairman, Committee on Energy and Natural Resources,*  
*U.S. Senate, Washington, DC.*

DEAR MR. CHAIRMAN: This responds to your request for our views on S. 1503, a bill "To clear title to certain lands along the California-Nevada boundary."

We would not object to enactment of S. 1503 if it is amended as suggested herein.

S. 1503 would validate title to certain lands that the Federal Government granted to the States of California and Nevada on or before July 7, 1980, which now fall within the other State as a result of the boundary established by the U.S. Supreme Court in 1980 in the case of *California v. Nevada*. S. 1503 would be limited to those lands conveyed to a third party by either State.

Section 5 of S. 1503 would direct the Secretary of the Interior, in coordination with the States of California and Nevada, to develop a list of the property affected by the bill. It provides that the list could be amended from time to time, and requires that the list and its amendments be published in the Federal Register.

We support the concept of S. 1503, that is, to validate title to tracts of lands transferred by the United States to California and Nevada and later transferred by those States to others, through legislation rather than litigation. However, we have some concerns with S. 1503 that we believe must be addressed.

As is noted in the legislation, there are a number of tracts along the California-Nevada border which were thought to have been granted by the Federal Government to California, and others to Nevada. Subsequently those tracts were conveyed by the named State to third parties. However, as a result of the Supreme Court decision, these tracts ended up not being within the State to which the Federal Government thought they had been granted. Thus, the title to these tracts now is clouded because it comes from a State which no longer falls within the chain of title. Litigation or administrative proceedings to quiet title against the United States would most certainly be an expensive and time consuming proposition for all involved parties. Therefore, legislation is appropriate.

However, the Department has particular concerns with section 5 of the bill which provides a means for identifying the lands in question. It requires that a list be published in the Federal Register by the Secretary of the Interior. The list could be amended from time to time. We have concerns about requiring the Secretary to develop a list within 6 months of enactment of S. 1503. The Secretary can only develop the list if information is supplied by the States. We have been trying, for much longer than 6 months, to identify the lands, in coordination with the States of Nevada and California,

and have been unable to do so. If enacted, we believe the bill should be amended to provide that the list be published within 6 months after receipt by the Secretary of a list that has been approved by both States.

Moreover, we question the open-ended nature of section 5. S. 1503 should apply only to treats presently identified.

One alternative might be to amend section 5 of S. 1503 to provide for the development of a list of patents issued by each State to third parties rather than for "a list of the property." This alternative would provide the link needed in the official records of each State to remove the cloud on the title of lands held by third parties as defined in sections 2 and 3 of S. 1503, and would serve to define the lands on which title is cleared by this bill.

Another matter that we suggest be considered is the possibility that enactment of S. 1503 could raise the issue of indemnity selections. A State could claim additional public lands within its borders as indemnity for its alleged loss of public lands, the title to which would be quieted to persons who hold lands granted to them when the lands were thought to be in one State but which are, as a result of the Supreme Court decision, in the other State. We recommend the addition of a section to S. 1503 that would prevent any claim or action against the United States by any entity for in lieu selections as a result of events leading to the enactment of this bill.

The Office of Management and Budget has advised that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

JAMES E. CASON,  
*Deputy Assistant Secretary.*

#### CHANGES IN EXISTING LAW

In compliance with paragraph 12 of Rule XXVI of the Standing Rules of the Senate, the Committee notes that no changes in existing law are made by the bill, S. 1503, as reported.

## APPENDIX

**FEDERAL LANDS SELECTED BY CALIFORNIA AND NEVADA  
POTENTIALLY AFFECTED BY S. 1503 AND H.R. 3085**



Prepared by:  
California State Lands Commission  
Title Unit

Verified by:  
California State Office  
ALM

October 9, 1985

APPROVED:

*Clair T. Dedrick*  
CLAIRE T. DEDRICK  
EXECUTIVE OFFICER  
CALIFORNIA STATE LANDS  
COMMISSION

ED WASTAY  
STATE DIRECTOR, CALIFORNIA  
BUREAU OF LAND MANAGEMENT

P. B. Wilcox  
PAMELA B. WILCOX  
ADMINISTRATOR  
NEVADA DIVISION OF STATE LANDS

EDWARD P. SPING  
STATE DIRECTOR, NEVADA  
BUREAU OF LAND MANAGEMENT

## NATIONAL MEMORIAL TO PATRICK HENRY

---

NOVEMBER 18, 1985.—Ordered to be printed

---

Mr. McCLURE, from the Committee on Energy and Natural Resources, submitted the following

## REPORT

[To accompany S.J. Res. 187]

The Committee on Energy and Natural Resources, to which was referred the joint resolution (S.J. Res. 187) designating Patrick Henry's last home and burial place, known as Red Hill, in the Commonwealth of Virginia, as a National Memorial to Patrick Henry, having considered the same, reports favorably thereon without amendment and recommends that the joint resolution do pass.

## PURPOSE OF THE MEASURE

The purpose of Senate Joint Resolution 187 is to commemorate Patrick Henry's service to America by designating his last home and burial place as the Red Hill Patrick Henry National Memorial.

## BACKGROUND AND NEED

Patrick Henry, the American patriot, statesman, and orator, lived from 1736 to 1799. Private organizations are now planning commemorative activities during 1986 for the 250th anniversary of Patrick Henry's birth.

Patrick Henry's last home and burial place, known as Red Hill, is located in Charlotte County, Virginia. The estate is owned by the Patrick Henry Memorial Foundation and is listed on the National Register of Historic Places. Along with his grave, Patrick Henry's original cottage law office, reconstructed home, and articles depicting his life and work are also located on the site.

In 1935, the Congress authorized the establishment of a National Memorial to Patrick Henry at Red Hill. That authorization was repealed in 1944.

Three other properties associated with Patrick Henry's achievements have been designated as National Historic Landmarks. They are: St. John's Church, the Hanover County Courthouse, and Scotchtown (Patrick Henry's home from 1771 to 1777).

#### LEGISLATIVE HISTORY

Senate Joint Resolution 187 was introduced on August 1, 1985. A hearing was held on the resolution by the Subcommittee on Public Lands, Reserved Water and Resource Conservation on October 10, 1985.

At a business meeting on November 6, 1985, the Senate Committee on Energy and Natural Resources ordered Senate Joint Resolution 187 favorably reported.

#### COMMITTEE RECOMMENDATIONS AND TABULATION OF VOTES

The rollcall vote on reporting the measure was 17 yeas, 0 nays as follows:

| YEAS                         | NAYS |
|------------------------------|------|
| Mr. McClure                  |      |
| Mr. Hatfield <sup>1</sup>    |      |
| Mr. Weicker <sup>1</sup>     |      |
| Mr. Domenici <sup>1</sup>    |      |
| Mr. Wallop                   |      |
| Mr. Warner                   |      |
| Mr. Murkowski <sup>1</sup>   |      |
| Mr. Nickles                  |      |
| Mr. Hecht                    |      |
| Mr. Evans                    |      |
| Mr. Johnston                 |      |
| Mr. Bumpers <sup>1</sup>     |      |
| Mr. Ford                     |      |
| Mr. Metzenbaum               |      |
| Mr. Bradley                  |      |
| Mr. Bingaman <sup>1</sup>    |      |
| Mr. Rockefeller <sup>1</sup> |      |

#### SECTION-BY-SECTION ANALYSIS

Senate Joint Resolution 187 makes numerous findings regarding the contributions of Patrick Henry and the appropriateness of designating Red Hill as a national memorial in tribute and recognition of his service to his country.

The resolution designates Red Hill as the Red Hill Patrick Henry National Memorial. It directs the Secretary of the Interior to announce the designation in the Federal Register and to amend memorial listings to include the property. The Secretary is also directed to place an appropriate plaque or marker at the gravesite, the cost of which is to be borne by private sources. Ownership of Red Hill, under the resolution, remains non-Federal, with all costs asso-

<sup>1</sup> Indicates vote by proxy.

ciated with future operation and maintenance to be assumed by the private owner.

#### COST AND BUDGETARY CONSIDERATIONS

The following estimate of the cost of this measure has been provided by the Congressional Budget Office:

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
Washington, DC, November 7, 1985.

Hon. JAMES A. MCCLURE,  
*Chairman, Committee on Energy and Natural Resources, U.S. Senate, Dirksen Senate Office Building, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed S.J. Res. 187, a joint resolution designating Patrick Henry's last home and burial place, known as Red Hill, in the Commonwealth of Virginia, as a National Memorial to Patrick Henry, as ordered reported by the Senate Committee on Energy and Natural Resources, November 6, 1985. We estimate that enactment of the resolution would not result in any significant cost to federal, state, or local governments.

S.J. Res. 187 would designate Patrick Henry's last home and burial place as a National Memorial and would direct the Secretary of the Interior to place a marker or plaque at the gravesite. None of the costs of the marker or the site would be borne by the federal government.

If you wish further details on this estimate, we will be pleased to provide them.

With best wishes,  
Sincerely,

RUDOLPH G. PENNER, *Director.*

#### REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of Rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying out Senate Joint Resolution 187. The resolution is not a regulatory measure in the sense of imposing Government-established standards or significant economic responsibilities on private individuals and businesses.

No personal information would be collected in administering the program. Therefore, there would be no impact on personal privacy.

Little, if any additional paperwork would result from the enactment of Senate Joint Resolution 187 as reported.

#### EXECUTIVE COMMUNICATIONS

The pertinent legislative reports received by the Committee from the Department of the Interior settings forth executive agency recommendations relating to Senate Joint Resolution 187 are set forth below:

## U.S. DEPARTMENT OF THE INTERIOR.

OFFICE OF THE SECRETARY,

*Washington, DC, November 7, 1985.*

Hon. JAMES A. McCLURE,

*Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.*

DEAR MR. CHAIRMAN: This responds to your request for our views on S.J. Res. 187, "Designating Patrick Henry's last home and burial place, known as Red Hill, in the Commonwealth of Virginia, as a National Memorial to Patrick Henry."

We strongly recommend against the enactment of this Joint Resolution.

S.J. Res. 187 would designate the property known as Red Hill in Charlotte County, Virginia, as a national memorial to Patrick Henry, to be known as the Red Hill Partick Henry National Memorial. The Secretary of the Interior would be directed to take action to assure that the memorial is announced in the Federal Register and that official lists are amended to reflect this memorial with others established by Congress. The Secretary would also be directed to place an inscribed plaque at Patrick Henry's gravesite on or before June 6, 1986, the anniversary of his death.

Patrick Henry, the American patriot, statesman, and orator, lived from 1736 to 1799. There are three nationally significant properties associated with Patrick Henry's achievements which have been recognized by the National Park Service and designated as national historic landmarks. These are: (1) St. John's Church in Richmond, where Patrick Henry delivered his "Liberty or Death" speech; (2) the Hanover County Courthouse, where he pleaded the legal case that first brought him renown; and (3) Scotchtown, the house which was his home from 1771 to 1777, the years of his influential leadership in the events that led to the American Revolution.

In our view, any one of these three well-preserved sites would be appropriate for designation as the Nation's memorial to Patrick Henry. Each has been found to meet criteria of authenticity that we require for a determination of national significance. Red Hill, his home from 1796 to his death in 1799, however, does not meet these criteria. Of the buildings at Red Hill that stood at the time of his residence there, only his law office survives, and it has been considerably altered and moved from its original location. Other Red Hill buildings are not authentic historic structures.

We believe it would be inappropriate to confer national designation on a site that cannot meet standards of historical integrity. We therefore strongly recommend that S.J. Res. 187 not be enacted.

The Office of Management and Budget has advised that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

P. DANIEL SMITH,  
*Deputy Assistant Secretary.*

## CHANGES IN EXISTING LAW

In compliance with paragraph 12 of Rule XXVI of the Standing Rules of the Senate, the Committee notes that no changes in existing law are made by the resolution, Senate Joint Resolution 187, as reported.

○